



STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
AUCTIONEER COMMISSION  
Davy Crockett Tower, Suite 635  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TN 37243-1152  
(615) 741-3236

The Tennessee Auctioneer Commission met September 10, 2007, at 9:00 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 160. Chairman Kenneth Dreaden called the meeting to order, and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

KENNETH DREADEN  
HOWARD PHILLIPS  
BOBBY COLSON  
MARVIN ALEXANDER

**COMMISSION MEMBERS ABSENT**

MARY FRANCES RUDY

**STAFF MEMBERS PRESENT**

Lynn McGill, Administrative Director  
Sheila Piper, Administrative Assistant  
Adrian Chick, Staff Attorney

**ADOPT AGENDA**

Motion was made by Bobby Colson and seconded by Marvin Alexander to adopt agenda. Motion carried. No opposition.

**MINUTES**

Minutes from the meeting of August 2007 were presented to the Commission Members for approval. Motion was made by Howard Phillips and seconded by Bobby Colson to approve said minutes. Motion carried. No opposition.

Sheila Piper presented a letter from NAA (National Auctioneer Association) to the Commission Members. NAA requested approval for CE to be viewed on line from the Conferences for 2006 and 2007.

Motion was made by Howard Phillips and seconded by Marvin Alexander to deny the request. Motion carried. No opposition.

**Formal Hearing**

Steve R. Darnell  
Administrative Law Judge  
312 8th Ave. North, 8th Floor  
Nashville, Tennessee 37243  
(615) 741-8784 phone  
(615) 741-4472 fax

Respondent: Nashville Powersport Auction.

The above styled matter was heard before the Tennessee Auctioneer Commission (hereafter referred to as the Commission) on September 10, 2007, as a contested hearing pursuant to the Uniform Administrative Procedures Act, contained in Tenn. Code Ann. Title 4, Chapter 5. The State of Tennessee was represented by Adrian Chick, Attorney at Law. The Respondents, Nashville Powersport Auction and Rodney Settles, were represented by Byron Gill, Attorney at Law.

The State presented as witnesses Darin Harrison, Brent Gower, Rick Fields, and Steve Johnson. The Respondent, Rodney Settles, testified on behalf of himself and Nashville Powersport Auction. Based upon testimony of the witnesses, exhibits introduced as evidence by the parties, and the record as a whole, the Commission found that the Respondents had both engaged in a continued and flagrant course of misrepresentation or making false promises in violation of Tenn. Code Ann. Sec. 62-19-112(b). Each Respondent was assessed a civil penalty of \$2,000 and costs were assessed to the Respondents equally

200706523 –Nashville Powersport Dismissed

200704683 - Nashville Powersport Dismissed

200705046 - Nashville Powersport Civil Penalty assessed of \$666.66 plus cost

200705045 - Nashville Powersport Civil Penalty assessed of \$666.66 plus cost

200604593 - Nashville Powersport Civil Penalty assessed of \$666.66 plus cost

### **APPLICANT CONFERENCES**

John Glenn appeared before the Commission Members to request a waiver of apprenticeship, based on experience. Motion was made by Howard Phillips and seconded by Marvin Alexander that Mr. Glenn be approved to take the apprentice test and serve a two year apprenticeship. Motion carried. No opposition.

Motion was made by Marvin Alexander and seconded by Bobby Colson to approve the apprentice application of Quint Williford. Motion carried. No opposition.

Sheila Piper presented the application of Don Rose to the Commission Members to request waiver of apprenticeship, based on experience. Motion was made by Bobby Colson and seconded by Marvin Alexander that Mr. Rose be approved to take the apprentice test and serve a two year apprenticeship. Motion carried. No opposition.

Gary Fritts appeared before the Commission Members. Motion was made by Bobby Colson and seconded by Howard Phillips to approve his firm application. Motion carried. No opposition.

Wendell Hanson appeared before the Commission Members to discuss seminars & newsletter for FY 2008.

Seminars for FY 2008:

Fall seminar

Where: Music Road Conference Center-Pigeon Forge, TN

Date: October 22, 2007

Topic: Running an Effective Auction Business, David Hart with Rowell Realty & Auction

Topic: Environmental Issues-TN Department of Environment and Conservation

Winter seminar

Where: Natchez Trace State Park or Millington Civic Center

Date: February 25, 2008

Spring seminar

Where: Nashville (negotiating with possible facilities)

Date: May 19, 2008

Newsletter

Fall Edition: first set-up is completed, first proof is completed. Currently in it's 2<sup>nd</sup> set-up to prep for TAC and Information Officer proof.

Staff Attorney presented the following complaints to the Commission Members.

**1. L07-AUC-RBS-2007065221**

This matter is presented for approval of a paid consent order.

Motion was made by Bobby Colson and seconded by Howard Phillips to take Legal's recommendation to close. Motion carried. No opposition.

**2. L07-AUC-RBS-2007070421**

**Complaint:** Complainant alleges that he purchased a clock from the Respondent's live online auction but did not ship the item. The Respondent informed the complainant that he was "too busy" to ship the item.

**Response:** Respondent states that, in accordance with its policy, the item was shipped 10 days after the check had been received. This delay is necessary to ensure that the checks clear the bank.

Motion was made by Bobby Colson and seconded by Howard Phillips to take Legal's recommendation to dismiss. Motion carried. No opposition.

**3. L07-AUC-RBS-2007064331**

**Complaint:** Complainant alleges that an advertisement for an auction by the Respondent did not provide the firm name and number.

**Response:** Respondent states the omission was an oversight and took measures to correct the ad as soon as the error was noticed.

Motion was made by Howard Phillips and seconded by Bobby Colson to take Legal's recommendation to send Letter of Caution. Motion carried. No opposition

**4. L07-AUC-RBS-2007076001**

**Complaint:** Complainant alleges that he attended an auction and the auctioneer started bids and that a relative of the auctioneer made bids and that the auctioneer did not sell to the highest bidder.

Motion was made by Howard Phillips and seconded by Bobby Colson to take Legal's recommendation to dismiss. Motion carried. No opposition

**5. L07-AUC-RBS-2007070281**

**Complaint:** The Respondent conducted a personal property auction for the complainant. The complainant disputes the final settlement submitted by the Respondent, and states that the Respondent was rude, failed to show items correctly, and failed to otherwise follow the contract.

**Response:** The Respondent believes it has submitted a correct statement, states that it was not rude, and indicates that the complainant is difficult to deal with.

Motion was made by Bobby Colson and seconded by Howard Phillips to take Legal's recommendation to dismiss. Motion carried. No opposition.

**6. L07-AUC-RBS-2007053611**

**Complaint:** The Respondent placed an advertisement in a local newspaper for the auction of real property. The Respondent's company owned the real property in question. The advertisement stated in part, "HOME FOR AUCTION", and "Home will be sold Sun. night, March 4 to highest and best bidder." The Respondent is not a licensed auctioneer.

**Response:** The Respondent states that it was not really an auction, but more of an "open house", and that he did not intend to advertise it as an auction.

Motion was made by Howard Phillips and seconded by Bobby Colson to take Legal's recommendation to dismiss. Motion carried. No opposition

**7. L07-AUC-RBS-2007063031**

**Complaint:** Information was received that the respondent would be conducting an auction the following morning (Saturday) and that he might be selling motor vehicles without an auctioneer license. Investigations were unable to attend the auction due to short notice. At the Commission's request, an investigation was conducted after the auction. This investigation, which included interviews with employees and a sworn statement by the Respondent, indicates that no motor vehicles were sold at the auction.

Motion was made by Bobby Colson and seconded by Howard Phillips to take Legal's recommendation to dismiss. Motion carried. No opposition.

**8. L07-AUC-RBS-2007060801.**

**Complaint:** Complainant alleges that the respondent, a licensed auctioneer, fraudulently converted proceeds of sales for her own benefit by forging checks. Investigations has been unable to locate the respondent.

**Response:** Requested May 9, 2007. None received.

**9. L07-AUC-RBS-20070685801. (Grand Ole Auction)**

Mr. & Mrs. Randy Sanders appeared before the Commission Members to address the Consent Order in the amount of \$500.00 they had received. After a lengthy discussion, motion was made by Howard Phillips and seconded by Bobby Colson to rescind Mr. & Mrs. Sanders' Consent Order in the amount of \$500.00 and open a complaint on the previous owner and send the previous owner a Consent Order in the amount of \$500.00. Motion carried. No opposition.

Motion was made by Bobby Colson and seconded by Howard Phillips to approve gallery license for Mr. & Mrs. Sanders. Motion carried. No opposition.

There being no further business, meeting adjourned.

APPROVED:

Kenneth Dreaden  
Chairperson

Howard Phillips  
Vice-Chairperson

Marvin Alexander  
Board Member

Bobby Colson  
Board Member

Mary Francis Rudy  
Board Member